




FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**SENSITIVE**

**MEMORANDUM**

**TO: The Commissioners  
Staff Director  
Deputy Staff Director  
General Counsel**

**FROM: Office of the Commission Secretary** 

**DATE: August 7, 2002**

**SUBJECT: Statement Of Reasons for MURs 4530, 4531, 4547, 4642  
and 4909 – DNC Services Corporation/Democratic National  
Committee and its treasurer**

**Attached is a copy of the Statement Of Reasons for MURs 4530,  
4531, 4547, 4642, and 4909 signed by Chairman David M. Mason and  
Vice Chairman Karl J. Sandstrom.**

**This was received in the Commission Secretary's Office on  
Wednesday, August 7, 2002 at 11:21 a.m.**

**cc: Vincent J. Convery, Jr.  
OGC Docket (5)**

**Attachment**

0015-445-5106



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**SENSITIVE**

**BEFORE THE FEDERAL ELECTION COMMISSION**

DNC Services Corporation/ )  
Democratic National Committee ) MURs 4530, 4531, 4547, 4642 and 4909  
and its treasurer )

**STATEMENT OF REASONS**

**I. Background**

On July 24, 2001, the Commission considered the Office of the General Counsel's recommendation to find probable cause to believe that the DNC Services Corporation/ Democratic National Committee and its treasurer ("DNC") violated 2 U.S.C. § 441e(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"), in connection with a \$60,000 contribution from Subandi Tanuwidjaja. Instead, by a vote of 5-1<sup>1</sup> the Commission voted to find no probable cause that the DNC violated the Act with respect to this contribution.<sup>2</sup> This Statement of Reasons provides the basis for the Commission's determination.

**II. Applicable Law**

Section 441e(a) provides that

it shall be unlawful for a foreign national directly or through any other person to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contribution, in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office; or for any person to solicit, accept, or receive any such contribution from a foreign national.

These prohibitions apply to federal, state, and local elections, and to donations to non-federal accounts of national party committees. See 11 C.F.R. § 110.4(a); *United States v. Kanchanalak*, 192 F.3d 1037, 1049-1050 (D.C. Cir. 1999).

<sup>1</sup>Commissioners Mason, McDonald Sandstrom, Thomas, and Wold voted affirmatively for the decision. Commissioner Bradley A. Smith dissented.

<sup>2</sup>The Commission, by a vote of 5-1, Commissioner Sandstrom dissenting, voted to find probable cause to believe that the DNC violated 2 U.S.C. §§ 441e(a) and 441f in connection with its failure to disgorge timely a \$20,000 contribution from Subandi Tanuwidjaja and a \$20,000 contribution from Suryanti Tanuwidjaja.

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The term "foreign national" as used in Section 441e(a) includes foreign principals as defined by 22 U.S.C. § 611(b), and individuals who are not United States citizens and not lawfully admitted for permanent residence as defined in 8 U.S.C. § 1101(a)(20).<sup>3</sup> 2 U.S.C. § 441e(b); 11 C.F.R. § 110.4(a)(4). Under 22 U.S.C. § 611(b)(2), the term "foreign principal" includes "a person outside the United States, unless it is established that such person is an individual and a citizen of and domiciled within the United States..."

### III. Facts

The facts in this matter are described in the General Counsel's Brief in MUR 4530 dated January 22, 2001 ("Brief"), drawn from the U.S. Senate Committee on Governmental Affairs' *Investigation of Illegal or Improper Activities in Connection with 1996 Federal Election Campaigns*, S. Rep. No. 167, 105<sup>th</sup> Cong., 2d Sess. (1998) ("Senate Report") and the U.S. House Committee on Government Reform and Oversight's report *Investigation of Political Fundraising Improprieties and Possible Violations of Law - Interim Report*, H.R. Rep. No. 829, 105<sup>th</sup> Cong., 2d Sess. (1998). Subandi Tanuwidjaja had "legal permanent residence" in the United States. Brief at 114-115. He

made two contributions to the DNC totaling \$80,000: \$60,000 by check dated September 9, 1996 and \$20,000 by check dated September 19, 1996, which the DNC reported receiving on September 25 and October 2, 1996, respectively.<sup>[4]</sup> The DNC deposited the \$20,000 contribution check in its federal account. The available information indicates that Subandi Tanuwidjaja's contributions were covered by a \$100,000 check from his father, Susanto Tanuwidjaja,<sup>[5]</sup> and a \$20,000 wire from Dragon Union, Ltd., a Hong Kong company.

Financial records show that on September 8, 1996, Subandi Tanuwidjaja's account at Western State Bank in California carried a balance of just over \$4,000. On September 9, 1996, the \$100,000 check from Susanto Tanuwidjaja was deposited into Subandi Tanuwidjaja's account. Financial records further show that the source of the funds in Susanto Tanuwidjaja's account was a wire transfer of \$99,985 on August 22, 1996 from a bank account maintained by Subandi Tanuwidjaja in Jakarta, Indonesia. On the same day as the \$100,000 check [was] deposit[ed] into Subandi Tanuwidjaja's account, he wired \$38,000 to a bank in Singapore, leaving a balance of \$66,049.99, enough to cover his \$60,000 check dated that same day, September 9, 1996. On September 18, 1996, Subandi Tanuwidjaja's account was credited with the \$20,000 wired by Dragon Union,

<sup>3</sup> The term "lawfully admitted for permanent residence" means "the status of having been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, such status not having changed." 8 U.S.C. § 1101(a)(2).

<sup>4</sup> Both checks had Subandi Tanuwidjaja's Diamond Bar, California address printed on their face and were drawn from the same Western State Bank account.

<sup>5</sup> Susanto Tanuwidjaja is a foreign national.

Ltd. in Hong Kong, increasing the balance to \$86,039.99. The following day, he wrote his \$20,000 check to the DNC. Thereafter, his two checks to the DNC cleared his account, the \$60,000 check on September 27, 1996 and the \$20,000 check on October 4, 1996.


General Counsel's Brief in MUR 4530 dated January 22, 2001 ("Brief") at 115-116 (footnotes and citations omitted).

#### IV. Analysis

Subandi Tanuwidjaja may make political donations that are in accordance with the Act and Commission regulations because he is not a foreign national as that term is defined in the Act. The Office of the General Counsel posited that Mr. Tanuwidjaja's \$60,000 contribution likely was made with foreign funds, supporting its theory primarily with the fact that the apparent origin of the funds used to make the contribution was Subandi Tanuwidjaja's overseas account.<sup>6</sup> This fact has some evidentiary weight but fails to establish a violation of the Act's prohibition on foreign national contributions. The foreign location of where the account was maintained is less important than whether or not the funds were legitimately owned by Mr. Tanuwidjaja. Essential to a determination otherwise would be facts establishing the alleged foreign national source of the funds in the account used to make the contribution. For example, the Commission relies on various financial records, such as deposit slips, wire-transfer reports and bank statements, in its consideration of alleged foreign national contributions. As to this contribution, however, there is no evidence of a foreign national source of the funds used to make the contribution. Although the Brief asserts that "questions are raised as to the original source of [the funds in Subandi Tanuwidjaja's overseas account]," Brief at 117, without some financial documentation indicating the alleged foreign source of these original funds, the Commission could not properly conclude that the contribution was impermissible and that the recipient should be found liable. Therefore, the Commission voted to find no probable cause to believe that the DNC violated 2 U.S.C. § 441e(a) with respect to this contribution.

August 2, 2002

  
David M. Mason  
Chairman

  
Karl J. Sandstrom  
Vice Chairman

<sup>6</sup> The overseas account at issue is alleged to have been "maintained" in Jakarta, Indonesia. Brief at 116. The bank is identified in the Senate Report as United City Bank, *Senate Report* at 976, and is an Indonesian bank. *The Bankers' Almanac*, Reed Business Information, Ltd., LEXIS, International Company Reports file.